REMARKS

This is a full and timely response to the Notice of Non-Compliant Amendment mailed December 19, 2007. Applicant has corrected the identifier associated with claim 14. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 112, Second Paragraph

Claims 14 and 15 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

In response to the rejection, Applicant has amended claim 14 to recite intercepting a "request" instead of a "message". In view of that amendment, it is respectfully submitted that the claims define the invention in the manner required by 35 U.S.C. § 112. Accordingly, Applicant respectfully requests that the rejections to claims 14 and 15 be withdrawn.

II. Claim Rejections - 35 U.S.C. § 103(a)

Claims 1-15 and 25-34 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kaler, et al.* ("Kaler," U.S. Pub. No. 2004/0199586). Applicant respectfully traverses.

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the

prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

> To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.
>
> The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In the present case, the prior art does not teach or suggest all of the claim limitations and there is no suggestion or motivation in the prior art to modify the references to include those limitations.

A. The Kaler Reference

Kaler discloses a system configured to route electronic messages. As described by Kaler, the system comprises a plurality of message processors 205-208 that "access" electronic messages. *Kaler*, paragraph 0059. By way of example, a first message processor 205 may by the "initiating" processor that originates the message,

second and third message processors 206 and 207 may be "intermediary" processors that route the message, and a fourth message processor 208 may be the "receiving" processor that is the intended destination for the message. *Kaler*, paragraph 0065; Figure 2.

Each message processor 205-208 is configured to identify session information when a message is accessed. Kaler provides an explicit definition as to what he means by "session information" in paragraph 0041:

> In this description and the following claims, "session information" is defined generally to include, but is not limited to, information used to represent characteristics of a communication session, such as, for example, session identifiers, session names, session priorities, message sequences, message sequence names, message sequence priorities, and message sequence values.

Kaler, paragraph 0041. Accordingly, Kaler uses the term "session information" to refer to information that facilitates a communication session as opposed to information that facilitates evaluation of the components that communicate. *See also Kaler*, paragraph 0006.

B. Applicant's Claims

1. Claims 1-12

Independent claim 1 provides as follows:

> 1. A method for collecting data regarding network service operation, the method comprising:
>
> a client sending a request to a network service;
>
> intercepting the request sent by the client directed to the network service;
>
> storing in a session timing profile information about the request including a name of the client, a name of the network service, and a request sent time identifying when the request was sent by the client; and
>
> transmitting the request to the network service.

As an initial matter, Kaler does not teach or suggest a "method for collecting data regarding network service operation" as is explicitly stated in the preamble of Applicant's claim 1. In fact, Kaler appears to be unconcerned with the operation of network services or the components that host those services. Instead, as described above, Kaler is concerned about facilitating communication sessions and the routing of messages in association with the communication sessions. Therefore, Kaler's system is not even configured to perform the method described by claim 1. It is for that reason that Kaler does not teach or suggest several of the explicit limitations of claim 1. Applicant discusses those limitations in the following.

Turning to the body of claim 1, Applicant notes that Kaler does not teach or suggest "intercepting" a request sent by the client and directed to a network service. In the final Office Action, it is argued that Kaler teaches such "intercepting" given that the

intermediary message processors (e.g., message processors 206 and 207 in Figure 2) access a message being sent to another message processor (e.g., message processor 208 in Figure 2). In reality, the intermediary message processors do not "intercept" any messages. Instead, the intermediary message processors merely receive messages that are sent to them and forward the messages on to the next message processor. As described by Kaler:

> Electronic message 230 can be routed along a routing path from end message processor 205 to end message processor 208. Intermediary message processors 206 and 207 may be message processors included in the routing path. As illustrated by arrow 1 in FIG. 2, *end message processor 205 can transfer electronic message 230 to intermediary message processor 206.* Electronic message 230 can subsequently be transferred to intermediary message processor 207 as illustrated by arrow 2 in FIG. 2 and arrive at end message processor 208 as illustrated by arrow 5 in FIG. 2.

Kaler, paragraph 0065 (emphasis added). As is made clear in the above paragraph, the intermediary message processor 206 does not intercept the electronic message 230. Instead, the message processor 205 that created the message *intentionally transfers* the message to the intermediary message processor 206. Such an action, i.e., receiving a message that is intentionally transferred to you, cannot reasonably be considered to comprise "intercepting" the message.

Continuing through the body of claim 1, Kaler further does not teach or suggest "storing in a session timing profile information about the request including a name of the client, a name of the network service, and a request sent time identifying when the

request was sent by the client". In the final Office Action, it is alleged that Kaler discloses such storing in paragraphs 0016 and 0041. This is simply not true.

As a first matter regarding the "storing in a session timing profile . . ." limitation, Kaler's message processors do not store anything in a "session timing profile" because Kaler does not even contemplate such a profile. As described above, Kaler is not concerned with the operation of the message processors themselves. Therefore, Kaler is not concerned with the timing with which those message processors processes messages. Accordingly, Kaler's message processors do not have any information to store in a "session timing profile" as explicitly required by claim 1. Although Kaler does disclose "caching" session information for use in processing subsequently received messages in paragraph 0016, that caching clearly is not storing information for the purpose of building a profile as to session timing. Instead, it appears clear that Kaler's message processors only temporarily maintain (as suggested by the term "cache") information that will be needed to process furthers messages within that same communication session. In such a case, the information would be cleared from the cache once the communication session is over.

As a second matter regarding the "storing in a session timing profile . . ." limitation, Kaler clearly does not teach or suggest the storing of *any* of "a name of the client", "a name of the network service", or "a request sent time identifying when the request was sent by the client". Regarding paragraph 0016 of the Kaler reference, which was relied upon by the Examiner, Kaler states:

> The accessing message processor determines if any session information should be updated. This can include adding session information to (e.g., in response to a query from another message processor), removing session information from (e.g., when session information is targeted only to the accessing message processor), and/or altering session information contained in the electronic message. Session information can also be retrieved from the electronic message and cached at the accessing message processor (or at some other accessible location) to facilitate the appropriate processing of subsequently received electronic messages. For example, cached session information can be utilized to determine the accessing message processor is associated with a communication session and/or message sequence represented in a subsequently received electronic message.

Kaler, paragraph 0016. As is readily apparent from the above paragraph, Kaler is silent as to the "name of the client". If the Examiner disagrees, Applicant requests that the Examiner *explicitly identify* the words or phrases in paragraph 0016 that comprise a disclosure of such a name. Equally apparent from the above paragraph, Kaler is silent as to the "name of the network service". If the Examiner disagrees, Applicant requests that the Examiner *explicitly identify* the words or phrases in paragraph 0016 that comprise a disclosure of such a name.

Turning to the "request sent time" portion of the limitation, the Examiner admits that Kaler does not teach or suggest storing a request sent time identifying when the request was sent by the client. However, the Examiner argues that the storage of such information would have been "obvious and expected" given that, in the Examiner's words, Kaler explicitly teaches "session information including time values." *Final Office Action*, page 4. The "time values" upon which the Examiner rests his obviousness case

stems from Kaler's solitary identification of a "Delay" value in paragraph 0041. The portion of paragraph 0041 to which the Examiner refers provides:

> Session information can be represented using virtually any types of values including, numeric values (e.g., 12, D4, 11001, etc.), characters of text (e.g., "c", "v", "6", etc.), strings of text (e.g., "06:45:33", "Delay=132 ms", etc.), or user-defined values. The definition of session information is further defined to include signed and/or encrypted session information (or portions thereof), such as, for example, session information that is encrypted for a particular recipient.

Kaler, paragraph 0041.

Applicant respectfully submits that Kaler's expression of "Delay=132 ms" does *not* comprise a legitimate suggestion that would motivate a person having ordinary skill in the art to store or log session timing information, such as the recited "request sent time". Again, Kaler is unconcerned with tracking operation of his message processors. Therefore, a person having ordinary skill in the art would not be considering the storage of session timing information when reviewing Kaler's disclosure. Moreover, such a person would not think to store times at which messages where received, or sent for that matter, in view of the cryptic phrase "Delay=132 ms". Not only does that phrase provide little more than an indication of a format of session information, the phrase raises more questions that answers them. In particular, it is not at all clear from the Kaler reference what that phrase means. For all the reader knows, the "delay" comprises a time period that a messaging processor should postpone forwarding of a received message after it has been processed. Regardless, without more, the

"Delay=132 ms" provides little motivation for any modification of the Kaler system to a person having ordinary skill in the art.

In view of the above, it is clear that Kaler does not in fact render claim 1 obvious. Applicant therefore respectfully submits that claim 1 and its dependents are allowable over the Kaler reference and that the rejections should be withdrawn.

2. Claims 13-15

Independent claim 13 provides as follows:

> 13. A method for collecting data regarding network service operation, the method comprising:
>
> intercepting a request sent by a client to a network service;
>
> storing in a session timing profile information about the request including a name of the client, a name of the network service, and a request received time identifying when the request was received; and
>
> transmitting the request to the network service.

Regarding claim 13, Applicant first notes that Kaler does not teach or suggest a method for "collecting data regarding network service operation" for reasons described above in relation to claim 1. Again, Kaler is concerned about facilitating a communication session, not logging information as to the operation of the message processors that participate in that communication session.

Second, Kaler does not teach or suggest "intercepting a request sent by a client to a network service" also for reasons described above in relation to claim 1. Again, Kaler's message processors merely receive messages that are intentionally sent to them. As such, they do not "intercept" the messages.

Third, Kaler does not teach or suggest "storing in a session timing profile information about the request including a name of the client, a name of the network service, and a request received time identifying when the request was received". As described above, although Kaler describes "caching" session information for use with subsequently received messages of a given communication session, such caching clearly is not "storing" information in a "session timing profile". Furthermore, as is also described above, Kaler is silent as to storing, or caching for that matter, the "name of the client" or the "name of the network service" in paragraph 0016, which was cited by the Examiner.

With further regard to the "storing in a session timing profile . . ." limitation, Applicant notes that Kaler does not teach or suggest storing or caching "a request received time identifying when the request was received" for similar reasons that Kaler does not teach or suggest storing "a request sent time" described in relation to claim 1. As mentioned in the discussion of claim 1, Kaler is unconcerned with tracking operation of his message processors, such as the time they receive messages, and the cryptic phrase "Delay=132 ms" does not provide a legitimate motivation to a person having ordinary skill to store such information.

In view of the above, it is clear that Kaler does not in fact render claim 13 obvious. Applicant therefore respectfully submits that claim 13 and its dependents are allowable over the Kaler reference and that the rejections should be withdrawn.

3. Claims 25-30

Independent claim 25 provides as follows:

> 25. A computer-readable medium that stores a message handler, the handler comprising:
>
> logic configured to intercept messages sent by a client and directed to a network service;
>
> logic configured to store in a session timing profile information about the message including a name of the client, a name of the network service, and a request sent time identifying when the request was sent by the client; and
>
> logic configured to transmit the message to the network service.

As an initial matter regarding claim 25, Applicant notes that the claim is explicitly directed to a "message handler" and that the Examiner identifies no components within the Kaler reference that he believes to constitute such a message handler. Applicant therefore respectfully submits that the Examiner has failed to state a prima facie case of obviousness against claim 25. Applicant further asserts that Kaler neither teaches or suggest such a message handler.

Turning to the body of claim 25, Applicant submits that Kaler does not teach or suggest "logic configured to intercept messages sent by a client and directed to a network service" or "logic configured to store in a session timing profile information about the message including a name of the client, a name of the network service, and a request sent time identifying when the request was sent by the client" for reasons described above in relation to claim 1. Applicant therefore respectfully submits that

claim 25 and its dependents are allowable over the Kaler reference and that the rejections should be withdrawn.

4. Claims 31-34

Independent claim 31 provides as follows:

> 31. A messaging system, comprising:
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> a first network service comprising an application program interface (API) that is configured to call a message handler; and
>
> a message handler that is called by the API, the message handler being configured to intercept requests sent by the first network service and directed to a second network service, to store in a session timing profile information about the request including a name of the first network service, a name of the second network service, and a request sent time identifying when the request was sent by the first network service, to interject information into the request including a session identification, to transmit the message to the second network service, to receive a response from the second network service, and to store in the session timing profile information about the response including a name of the second network service, a name of the first network service, and a response received time identifying when the response was received.

Kaler does not teach or suggest "a first network service comprising an application program interface (API) that is configured to call a message handler". Regarding that limitation, Applicant notes that although the Examiner generally alleges on page 6 of the final Office Action that Kaler "discloses" an API configured to call a message handler, the Examiner provides no citation to the Kaler reference. Applicant therefore respectfully submits that the Examiner has failed to make a prima facie case

against claim 31. Applicant further notes that Applicant has reviewed the entirety of the Kaler reference and can find no disclosure of such an API.

In addition, Kaler does not teach or suggest a "message handler that is called by the API". The Examiner failed to provide a citation of where such a message handler is disclosed by Kaler. Therefore, the Examiner has also failed to make a prima facie case for that reason. Applicant notes that, if it is the Examiner's position that Kaler's message processors comprise a "message handlers", the Examiner cannot further cite Kaler's message processors as comprising Applicant's claimed "network services". In other words, Kaler's message processors cannot be both "message handler" and "network services". Applicant further notes that, given that Kaler does not disclose components other than the message processors 205-208, it is clear that Kaler does not further disclose a separate message handler, as is required by claim 31.

Kaler further does not teach or suggest a message handler or another component that is configured to "intercept requests sent by the first network service and directed to a second network service" or "store in a session timing profile information about the request including a name of the first network service, a name of the second network service, and a request sent time identifying when the request was sent by the first network service". Regarding Kaler's message processors, those processors do not "intercept" messages and do not store any of "a name of the first network service", "a name of the second network service", or "a request sent time" for reasons described above in relation to claim 1.

As a further matter, Kaler does not teach or suggest a message handler or other component configured to "store in the session timing profile information about the

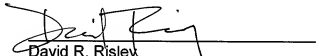
response including a name of the second network service, a name of the first network service, and a response received time identifying when the response was received" for reasons described above in relation to claim 13.

Applicant therefore respectfully submits that claim 31 and its dependents are allowable over the Kaler reference and that the rejections should be withdrawn.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



David R. Risley
Registration No. 39,345